

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA**

Francine Yvonne Knight,	)	
	)	
Plaintiff,	)	
	)	Civil Action No. 0:11-3426-RMG
vs.	)	
	)	
Carolyn W. Colvin, Acting Commissioner	)	<b>ORDER</b>
of Social Security,	)	
	)	
Defendant.	)	
	)	

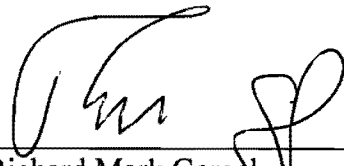
---

This matter comes before the Court on an appeal by Plaintiff from the decision of the Acting Commissioner denying her application for Disability Insurance Benefits and Supplemental Security Income. The matter was referred to the Magistrate Judge for pre-trial handling pursuant to 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (D.S.C.). The Magistrate Judge issued a Report and Recommendation on March 13, 2013 recommending that the decision of the Acting Commissioner be reversed and the matter remanded to the Acting Commissioner to address new and material information presented to the Appeals Council by the claimant's treating physician, Dr. John M. Downey. (Dkt. No. 32). The Downey letter, dated September 15, 2010, addressed certain findings of Dr. Downey, a pain specialist, and set forth certain opinions regarding Plaintiff's physical limitations which were inconsistent with other evidence credited by the Administrative Law Judge. Transcript of Record ("Tr.") at 378. The Downey letter was included in the record by the Appeals Council but was not weighed by any fact finder or reconciled with supporting and conflicting evidence in the record. Tr. at 1-4.

The Commissioner responded to the Magistrate Judge's Report and Recommendation indicating that she would not file objections. (Dkt. No. 34).

The Court has reviewed the record in this matter as well as the Report and Recommendation of the Magistrate Judge and the response of the Acting Commissioner. The Court finds that under the authority of *Meyer v. Astrue*, 662 F.3d 700, 707 (4th Cir. 2011), reversal and remand are necessary to reconcile the opinions offered by Plaintiff's treating physician, Dr. Downey, with other conflicting and supporting evidence in the record. Therefore, the Court **REVERSES** the decision of the Acting Commissioner and **REMANDS** this matter to the Agency for further action consistent with this order pursuant to Sentence Four of 42 U.S.C. § 405(g).

AND IT IS SO ORDERED.

  
Richard Mark Gergel  
United States District Judge

Charleston, South Carolina  
March 29, 2013